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AF/3622

PTO/SB/21 (09-04)

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	Application Number	09/629,013
	Filing Date	July 31, 2000
	First Named Inventor	Cary D. Perttunen
	Art Unit	3622
	Examiner Name	Jeffrey D. Carlson
Attorney Docket Number		CDP0700

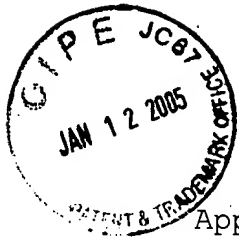
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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Cary D. Perttunen

Title: METHOD, ARTICLE AND APPARATUS FOR ADVERTISING  
BASED ON AN ATTRIBUTE OF A COMPUTER NETWORK  
RESOURCE

Filing Date: July 31, 2000

Applic. No.: 09/629,013

Docket No.: CDP0700

Art Unit: 3622

Examiner: Jeffrey D. Carlson

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REPLY BRIEF

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This reply brief is filed to address new points of argument in the Examiner's Answer mailed December 29, 2004.

Applicant maintains his positions presented in the Appeal Brief filed October 13, 2004. In addition, Applicant presents the following arguments to address new points of argument made in the Examiner's Response to Argument section of the Examiner's Answer.

Examiner now argues that parameters for defining levels, leaves and nodes need not be presented in the art, but merely a tree/list structure which can be described as such by an observer. Applicant respectfully disagrees. Applicant views Examiner's argument as another concession that claimed features are not disclosed in the art. Inaccurately ascertaining differences between the prior art and the claims at issue causes error in performing a Graham test for obviousness. Further, Applicant believes that the Examiner's hypothetical observer, at best, is imagining non-causal coincidences with parameters not disclosed in the art, rather than causation based on the parameters using the particular methods being claimed.

To illustrate the difference between causation and non-causal coincidence, consider a hypothetical observer who observes a person using a computer to view an ESPN® Web page with a banner ad for PEPSI®. The observer also observes that the person is sitting in a red chair at a green desk in a 100-square-foot office, and that an empty PEPSI® bottle is on the floor in a corner of the office. Applicant believes that without additional information, the observer does not know what condition(s) caused an ad server to select the PEPSI® ad for display with the ESPN® Web page. In contrast,

the Examiner's hypothetical observer could imagine the aforementioned scenario as teaching that the PEPSI® ad was selected because the office has an empty PEPSI® bottle therein, or because the person is sitting in a red chair at a green desk in a 100-square-foot office. These two hypothetical observer descriptions would be incorrect if the PEPSI® ad was selected independent of the aforementioned conditions.

Since Applicant has used the phrase "based on" in all of the independent claims, the claimed inventions are clearly within the realm of causation rather than non-causal coincidence.

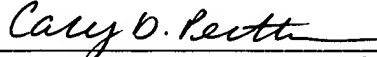
Regarding claim 36, Examiner argues that a statement made by the Applicant is narrower than the current claim scope. Applicant respectfully disagrees. In the statement, Applicant shows that the Examiner's position relates to non-causal coincidence, and that non-causal coincidence does not suggest causation.

Examiner has shifted an argument from "cookie" to "cookie data". Applicant notes that a cookie per se differs from cookie data (i.e. data that is stored in a cookie). A cookie is a particular vehicle for storing and retrieving persistent data at a client node. A computer can store cookie data (e.g. data from a cookie at some other computer) in its database without storing a cookie in the computer.

Finally, regarding Examiner's additional argument on claims 43-44, Applicant reiterates that claims 43-44 recite further limitations on the same at least one cookie recited

in independent claim 10. Thus, the Examiner's additional argument is believed to be overcome by any one or more of the four reasons detailed in the Appeal Brief.

Respectfully submitted,



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Dated: January 12, 2005